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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
ROLLAND, ALEX A	

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
11/17/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	10/541,676	REISSENWEBER, DIRK	
	Examiner	Art Unit	
	ALEX ROLLAND	1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 October 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *19-29 and 31-46* is/are pending in the application.

4a) Of the above claim(s) *19-28,37,38 and 41-46* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *29,31-36,39 and 40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/9/09*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/9/09 has been entered.

Election/Restrictions

2. Claims 19-28, 37-38, 41-46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/22/08.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 29, 33, 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2850999 to Kaplan et al in view of US 5919517 to Levendusky et al. Kaplan teaches a method for making coated, embossed metal sheets (col. 1, lines 15-19) from rust resistant metals such as aluminum (col. 1, line 22). Sheets of aluminum can be embossed in small strips to provide ornamental sheets (col. 1, lines 29-31). These sheets have been coated, after they are embossed, with various coating materials (col. 1, lines 31-34) such as plastics (col. 1, lines 65-75) on only a single side (Fig. 4). The embossing operation comprises the sheets being passed through matched hard steel embossing rolls (claimed "embossing unit") in order to form a multitude of small bosses (col. 4, lines 56-70). Kaplan does not teach that the coating is extruded onto the metal sheets. However, Levendusky teaches a method for coating a metal strip, in particular aluminum, on one or both sides (col. 1, lines 1-21) with thermoplastic resins from extruders and extrusion dies (col. 1, lines 7-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to

practice the method of Kaplan and extrude the plastics onto the aluminum because Levendusky states that it is suitable to do so.

Under another interpretation, Kaplan teaches a method for making coated, embossed metal sheets (col. 1, lines 15-19) from rust resistant metals such as aluminum (col. 1, line 22). The coating is applied onto the metal sheet as an initial treatment, followed by embossing of the coated sheet, before other secondary operations (col. 2, lines 55-60). The coating can be selected from varnishes (col. 3, line 73) which inherently provide a protective quality. The embossing operation comprises the sheets being passed through matched hard steel embossing rolls (claimed "embossing unit") in order to form a multitude of small bosses (col. 4, lines 56-70). Kaplan does not teach that the secondary operation is extrusion coating with plastic. However, Levendusky teaches a method for coating a metal strip, in particular aluminum, on one or both sides (col. 1, lines 1-21) with thermoplastic resins from extruders and extrusion dies (col. 1, lines 7-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to practice the method of Kaplan for making a varnished, embossed aluminum sheet followed by the method of Levendusky for coating an aluminum sheet with thermoplastic resins because Kaplan states that secondary operations are suitable for processing aluminum and Levendusky states that it is desirable to coat aluminum in thermoplastic resins and to coat opposite sides of the aluminium sheet for the predictable result of providing protective qualities to both sides of the sheet.

6. Claims 32, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2850999 to Kaplan et al and US 5919517 to Levendusky et al in view of US 6270869 to Zeiter et al.

Kaplan and Levendusky are discussed above but fail to teach an adhesive varnish and an additional plastic layer being loosely bonded to the aluminum substrate. However, Zeiter teaches a laminate film comprising a metal foil such as an aluminum foil surrounded by plastic layers (abstract) wherein the aluminum foil is pre-treated with primer on one side with stove-lacquer, epoxy, or polyurethane (types of varnish having adhesive properties) and coated thereafter with PVC (claimed "additional plastic layer") on one side of the metal foil and polyamide (claimed "reinforcement layer on the other side of the metal foil (col. 4, lines 20-29). PVC has the loosely bonded and detachable by hand property because Applicant's state that this property is desired of the protective layer and the protective layer may be PVC (pg. 7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to practice the method of Kaplan and Levendusky and pre-treat the other side of the aluminum and coat the aluminum with different plastics because Zeiter states that it is suitable to do so when forming aluminum laminate films.

7. Claims 31, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2850999 to Kaplan et al and US 5919517 to Levendusky et al in view of US 4253597 to Waffner et al.

Kaplan and Levendusky are discussed above but fail to teach passing the aluminum through a loop-like arrangement after embossing and before extrusion coating. However, Waffner teaches that it has long been known that the feeding of web material, such as fragile sheeting, from an input to an output is best accomplished b permitting a loose loop to form in the web between the inlet and the outlet (col. 1, lines 5-11). With such a loop, the web will not be damaged if there are changes in the relative infeed and outfeed speeds of the web (col. 1, lines 10-13). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to practice the method of Kaplan and Levendusky and including a loose loop between embossing and extrusion coating because Waffner states that it is suitable to do so for a fragile web to prevent damage.

8. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2850999 to Kaplan et al, US 5919517 to Levendusky et al, and US 4253597 to Waffner et al in view of US 1856928 to Pannier.

Kaplan, Levendusky, and Waffner are discussed above but fail to teach the upper layer stopping during the embossing process. However, Pannier teaches a stamping method for embossing a metal sheet (col. 1, lines 1-4) wherein a pair of embossing dies (claimed “upper stamp" and "lower stamp") are used to emboss metal sheets (col. 1, lines 17-28) by bringing the sheet between the dies, operating upon the sheet (claimed “stopped during embossing”), then shifting the sheet (col. 3, lines 59-65). Therefore it

would have been obvious to one of ordinary skill in the art at the time of the invention to replace the embossed rollers of Kaplan, Levendusky, and Waffner with the embossing dies of Pannier because Pannier states that such embossing dies are suitable for embossing metal.

Response to Arguments

9. Applicant's arguments filed 10/9/09, with respect to the rejection(s) of claim(s) 29, 31-36, 39-40 under 102(b) and 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of further search and claim amendments.

10. Applicant's arguments with respect to Zeiter have been considered but are moot in view of the new ground(s) of rejection.

11. In response to applicant's argument regarding Levendusky, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

12. No Claims are allowed. All pending claims are rejected for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX ROLLAND whose telephone number is (571)270-5355. The examiner can normally be reached on Monday though Friday, 9:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on (571)272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALEX ROLLAND/
Examiner, Art Unit 1792

/Michael Cleveland/
Supervisory Patent Examiner, Art Unit 1792